

DECISION

THE COMPTROLLER GENERAL 24882
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-211261

DATE: April 15, 1983

MATTER OF: Sea Services Technology

DIGEST:

1. Protest against solicitation vessel certification requirement is dismissed as untimely since protest was not filed in GAO or agency before the closing date for receipt of initial proposals.
2. Where solicitation provision advised that offerors not offering vessels certified for carriage of passengers and cargo by the Coast Guard would only be considered if no responsive offers of certified vessels were received, and two responsive offers of certified vessels were received, agency's refusal to consider protester's offer of noncertified vessel was proper.

Sea Services Technology (SST) protests under request for proposals (RFP) No. N0003383R3012 for the charter of United States flag vessels to support sonar calibration of submarines at sea, issued by the Military Sealift Command (MSC). SST alleges that the RFP requirement--that offerors indicate whether their vessels are certified for carriage of passengers and cargo by the United States Coast Guard and that offerors without certification will only be considered for award if no responsive offers of certified vessels are received--is inappropriate and unnecessary. SST also alleges that its offer was lower than the two awardees and, therefore, the certification requirement should have been waived.

Our Bid Protest Procedures require that a protest based upon alleged improprieties in an RFP which are apparent prior to the closing date for receipt of initial proposals be filed prior to the closing date. 4 C.F.R. § 21.2(b)(1) (1983). SST did not protest to MSC or GAO until March 19, 1983, after the March 4, 1983, closing date for receipt of initial proposals.

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Accordingly, the protest against the certification requirement is untimely and will not be considered on the merits.

SST also alleges that MSC should have waived the certification requirement. However, under the terms of the RFP, MSC could only consider offers of non-certified vessels where no responsive offers of certified vessels were received. Since SST did not offer certified vessels and MSC advises that it awarded to two offerors of certified vessels, MSC's award to the offerors of certified vessels was required under the terms of the RFP. Award to SST in these circumstances would have violated the solicitation terms.

We dismiss the protest in part and deny it in part.

for *F. H. Barclay, Jr.*
Comptroller General
of the United States